NOTES

LEGISLATIVE CONTROL OF WOMEN'S WORK

The assumption of control over the conditions under which industrial women are employed is one of the most significant features of recent legislative policy. In many of the advanced industrial communities the state not only undertakes to prescribe a minimum of decency, safety, and healthfulness below which its wage-earners may not be asked to go, but takes cognizance in several ways of sex differences and sex relationships.

It is evident, for example, that the presence of women in certain places or at certain times creates a situation probably immoral or disorderly, with which the state, in the interests of propriety, may interfere. To this end, there is legislation in some of the states, forbidding the employment of women, other than members of the family of the employer, in bar-rooms and liquor saloons.

Again, it is well known that the unregulated mingling of men and women under conditions of darkness, fatigue, or the excitement due to the constant apprehension of danger may give rise to immoral intercourse. On this account we find women generally prohibited from working in mines, and sometimes from other forms of employment at night.

In the third place, the state sometimes takes cognizance of the peculiarly close relationship which exists between the health of its women citizens and the physical vigor of future generations. Without reference to the general merits of the eight-hour-day question, or to the desirability of increasing the leisure of the industrial classes for the sake of their economic or social uplifting, in a number of states — and those the most advanced in industrial development as well as in ways that may be called cultural and spiritual — it has been declared a matter of public concern that no group of its women workers should be allowed to unfit themselves by excessive hours of work, by standing, or other physical strain, for the burden of motherhood which each of them should be able to assume.

Such legislation is usually called "protective legislation" and the women workers are characterized as a "protected class." But it is

obviously not the women who are protected. For them, some of this legislation may be a distinct limitation. For example, the prohibition against work in mines or against night work may very well so limit the opportunities of women to find employment as to result in increased congestion and decreased wages in such other occupations as are open to them. Because of the smaller number of women industrially employed, and because of the survival in present-day notions of the mediæval idea that where unsuitable conditions of intercourse between the sexes exist it is the women whose presence is the disturbing factor, for these two reasons it is not unnatural, and may be most desirable, to exclude women from these forms of employment. But no one should lose sight of the fact that such legislation is not enacted exclusively, or even primarily, for the benefit of women themselves.

And in the case of the limitation of hours or demand for a standard of decency and comfort higher than that prescribed for men workers, if the regulation does not handicap women in their competition with men or reduce the amount paid to them in wages,[1] it is because, in the first place, women so rarely compete with men,[2] because, also, the lack, among women workers generally, of any effective standard of life, or professional standard of work, or of any power of organization, renders their labor so easily the subject of exploitation that there is generally a considerable margin of advantage to the employer in the use of women's labor, which it is more profitable to share with the worker in the creation of more favorable conditions of work, than to forego altogether by employing men.[3] Finally, the improved conditions of work may attract a higher grade of labor which can and does obtain as high wages under the favorable conditions because worth enough more to the employer to make good the expenditures required.

While this legislation may "protect" women workers against certain forms of brutality and greed on the part of employers, and while it may "protect" some women against the competition of others of lower standards and seemingly greater need, it is still to be borne in mind that the object of such control is the protection of the physical

[1] For evidence that it does not, see Wood, "Factory Legislation Considered with Reference to the Wages of the Operatives Protected Thereby," *Journal Royal Statistical Society*, 1902, p. 302.

[2] Webb, *Problems of Modern Industry*, chap. iii.

[3] Webb, *op. cit.*, chap. iv.

well-being of the community by setting a limit to the exploitation of the improvident, unworkmanlike, unorganized women, who are yet the mothers, actual or prospective, of the coming generation. The effectiveness with which this power of control is assumed and exercised is one standard by which the community must judge itself and be judged of others.[4]

And that such a test may be applied intelligently to the different sections of the United States an analysis of the laws now in force in the different states is presented. This analysis is based upon the *Tenth Special Report of the Commissioner of Labor* (1904), supplemented by reference to such legislation as was enacted by the various state legislatures during the past two winters. It is therefore a summary of laws relating to the employment of women now in force in the United States.

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STATUTORY REGULATION OF WOMEN'S EMPLOYMENT—CODIFICATION OF STATUTES

TABLE A. STATUTES PROHIBITING THE EMPLOYMENT OF WOMEN

I. In mines, smelteries and collieries.

1. States prohibiting the employment of women,

a) In mines: Alabama (*Code of 1897,* chap. 78, § 2933); Arkansas (*Digest of 1894,* chap. 109, § 5051); Colorado (*Mill's Annot. Stat.,* chap 85, § 3185); Illinois (*Coal Mine Reg.,* Act of 1899, § 22); Indiana (*Rev. Stat. 1901,* chap. 81, § 7480); Maryland (*Acts of 1902,* chap. 124, § 209); Missouri (*Rev. Stat. 1890,* chap. 133, § 8811); Pennsylvania (*Brightly's Digest,* 1895, p. 979, § 3); Utah (*Rev. Stat. 1899,* title 36, § 1338); Washington (*Mine Reg.,* title 18, § 3172); West Virginia (*Code of 1899,* Mine Reg., § 13); Wyoming (*Constitution,* Art. 9, § 3).

b) In or about mines: Alabama (*supra*); Illinois (*supra*).

c) In mines and smelters: Utah (*supra*).

d) In coal, iron, or other dangerous mines: Wyoming (*supra*).

[4] For laws on this subject in force in other countries than the United States see *Report of the Industrial Commission XVI,* pp. 23, 36, 52.